

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CHARLES F. CARDONE,)
)
Plaintiff,)
)
v.) Civil Action No. 06-646 KAJ
)
WARDEN THOMAS CARROLL,)
DOC-DEL CLASSIFICATION BOARD,)
ANTHONY J. RENDINA,)
)
Defendants.)

ORDER

1. The plaintiff Charles F. Cardone, SBI #098159, a pro se litigant who is presently incarcerated, has filed this action pursuant to 42 U.S.C. § 1983 without prepayment of the filing fee or a request to proceed in forma pauperis.

2. Pursuant to 28 U.S.C. § 1915(b), the plaintiff shall be assessed the filing fee of \$350.00.

3. Pursuant to the requirements of 28 U.S.C. § 1915(a)(1) and (2), and in order to determine the schedule of payment of the filing fee, the plaintiff shall submit to the Clerk of Court, a request to proceed in forma pauperis and a certified copy of his prison trust fund account statement (memorandum or institutional equivalent, with attachments) showing all deposits, expenditures and balances during the six-month period immediately preceding the filing of the complaint,

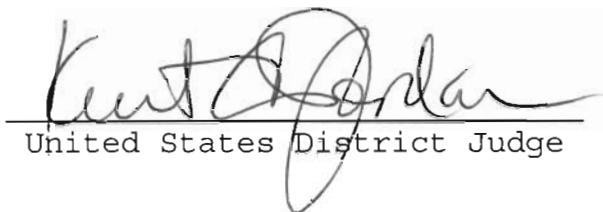
obtained from the appropriate official at each institution at which the plaintiff is confined. FAILURE OF THE PLAINTIFF TO RETURN THE REQUESTED INFORMATION WITHIN 30 DAYS FROM THE DATE THIS ORDER IS SENT SHALL RESULT IN DISMISSAL OF THIS ACTION WITHOUT PREJUDICE.

4. Unless the Court determines from the plaintiff's financial information that he has no assets whatsoever, an initial partial filing fee of 20 percent (20%) of the greater of the plaintiff's average monthly deposit or average monthly balance in the trust fund account shall be required to paid before the court reviews the complaint. NOTWITHSTANDING ANY PAYMENT MADE OR REQUIRED, THE COURT SHALL DISMISS THE CASE IF THE COURT DETERMINES THAT THE ACTION IS FRIVOLOUS OR MALICIOUS, FAILS TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED, OR SEEKS MONETARY RELIEF AGAINST A DEFENDANT WHO IS IMMUNE FROM SUCH RELIEF.

5. Pursuant to 28 U.S.C. § 1915(g), if the plaintiff has had three or more actions dismissed by the Court on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted, then the Court shall deny the plaintiff leave to proceed in forma pauperis in all future suits filed without prepayment of the filing fee, unless the

Court determines that the plaintiff is under imminent danger of serious physical injury.

DATED: 10/26/06



United States District Judge